



2005 SENATE BILL 244

June 21, 2005 - Introduced by Senators STEPP, GROTHMAN and DARLING, cosponsored by Representatives VOS, J. FITZGERALD, GRONEMUS, LEMAHIEU, NASS, STRACHOTA, MCCORMICK, BALLWEG, AINSWORTH, HAHN, NISCHKE, SHERIDAN, LEHMAN and MUSSER. Referred to Committee on Health, Children, Families, Aging and Long Term Care.

1 **AN ACT** *to renumber and amend* 767.327 (5m); *to amend* 767.24 (1m) (L); and
2 *to create* 767.001 (1g), 767.23 (1) (ap), 767.24 (1m) (Lm), 767.24 (4) (e) and
3 767.327 (5m) (b) of the statutes; **relating to:** granting a parent electronic
4 communication with a child.

Analysis by the Legislative Reference Bureau

Under current law, in a divorce or legal separation in which a minor child is involved, and in a paternity action, the court must grant sole legal custody of the child to one parent or joint legal custody to both parents together. In addition, the court must allocate between the parents periods of physical placement, which is the condition under which the child is physically placed with the parent and the parent has the right and responsibility during that time to care for, and make routine daily decisions concerning, the child. The court may deny a parent periods of physical placement with the child only if being physically placed with the parent would endanger the child's physical, mental, or emotional health.

This bill provides that, if the court grants periods of physical placement to both parents, the court may grant to a parent a reasonable amount of electronic communication at reasonable hours during the other parent's periods of physical placement with the child. Electronic communication is defined as time during which a parent and his or her child communicate by using various types of communication tools, such as the telephone, electronic mail, instant messaging, and video conferencing or other wired or wireless technologies via the Internet. The basis for granting electronic communication is whether it is in the child's best interest and

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whether equipment for providing electronic communication is reasonably available to both parents. Electronic communication may be used only to supplement, and not as a substitute or replacement for, the physical placement that a parent has with the child.

The bill provides that a parenting plan that a party files with the court before a pretrial conference when legal custody or physical placement is contested must include any electronic communication a parent is requesting and must indicate whether equipment for providing electronic communication is reasonably available to both parents. The bill also provides that, if a parent is proposing to move with the child and the other parent objects to the move, the court may not use the availability of electronic communication as a factor in support of a modification of physical placement or a refusal to prohibit the parent from moving with the child.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 767.001 (1g) of the statutes is created to read:

2 767.001 (1g) “Electronic communication” means time during which a parent
3 and his or her child communicate by using communication tools such as the
4 telephone, electronic mail, instant messaging, video conferencing or other wired or
5 wireless technologies via the Internet, or another medium of communication.

6 **SECTION 2.** 767.23 (1) (ap) of the statutes is created to read:

7 767.23 (1) (ap) Upon the request of a party, granting periods of electronic
8 communication to a party in a manner consistent with s. 767.24. The court or circuit
9 court commissioner shall make a determination under this paragraph within 30
10 days after the request for a temporary order regarding periods of electronic
11 communication is filed.

12 **SECTION 3.** 767.24 (1m) (L) of the statutes is amended to read:

13 767.24 (1m) (L) Whether and how the child will be able to contact the other
14 parent when the child has physical placement with the parent providing the
15 parenting plan, and what electronic communication, if any, the parent is seeking.

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1 **SECTION 4.** 767.24 (1m) (Lm) of the statutes is created to read:

2 767.24 **(1m)** (Lm) Whether equipment for providing electronic communication
3 is reasonably available to both parents.

4 **SECTION 5.** 767.24 (4) (e) of the statutes is created to read:

5 767.24 **(4)** (e) If the court grants periods of physical placement to more than one
6 parent, the court may grant to either or both parents a reasonable amount of
7 electronic communication at reasonable hours during the other parent's periods of
8 physical placement with the child. Electronic communication with the child may be
9 used only to supplement a parent's periods of physical placement with the child.
10 Electronic communication may not be used as a replacement or as a substitute for
11 a parent's periods of physical placement with the child. Granting a parent electronic
12 communication with the child during the other parent's periods of physical
13 placement shall be based on whether it is in the child's best interest and whether
14 equipment for providing electronic communication is reasonably available to both
15 parents.

16 **SECTION 6.** 767.327 (5m) of the statutes is renumbered 767.327 (5m) (intro.)
17 and amended to read:

18 767.327 **(5m)** DISCRETIONARY OTHER FACTORS TO CONSIDER. (intro.) In making
19 a determination under sub. (3), ~~the~~:

20 (a) The court may consider the child's adjustment to the home, school, religion
21 and community.

22 **SECTION 7.** 767.327 (5m) (b) of the statutes is created to read:

23 767.327 **(5m)** (b) The court may not use the availability of electronic
24 communication as a factor in support of a modification of a physical placement order
25 or in support of a refusal to prohibit a move.

